

**BEFORE THE
ADMINISTRATIVE RULES COMMITTEE
OF THE NORTH DAKOTA LEGISLATIVE COUNCIL**

Amendments to N.D. Admin. Code)	<u>REPORT OF THE</u>
Chapter 75-02-02, Medical Services)	<u>DEPT. OF HUMAN SERVICES</u>
(Pages 1057-1073))	July 16, 2003

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For its report, the North Dakota Department of Human Services states:

- 1. These amendments did not result from statutory changes made by the Legislative Assembly.**

- 2. These rules are not related to any changes in federal statutes or regulations.**

- 3. The Department of Human Services uses direct mail and electronic mail as the preferred ways of notifying interested persons of proposed rulemaking. The department uses a "basic" mailing list for each rulemaking project that includes the county social service boards, the regional human service centers, all Legal Aid offices in North Dakota, all persons who have asked to be on the basic list, and internal circulation within the department. Additionally, the department constructs relevant mailing lists for specific rulemaking. The department also places public announcements in all county newspapers advising generally of the content of the rulemaking, of over 50 locations throughout the state where the proposed rulemaking documents may be reviewed, and stating the location, date, and time of the public hearing.**

The department conducts public hearings on all substantive rule-making. Oral comments are recorded. After the hearing, oral comments as well as any written comments that have been received are summarized and presented to the department's executive director, together with any response to the comments that may seem appropriate and a redrafted rule incorporating any change occasioned by the comments.

4. No comments were received at the public hearing held in Bismarck on January 3, 2003. No written comments were received either.
5. No written requests for regulatory analysis have been filed by the Governor or by any agency. The rule amendments are anticipated to have a significant fiscal impact on the regulated community. A regulatory analysis was prepared and is attached to this report.
6. The approximate cost of giving public notice and holding a hearing was \$1,677.26.
7. The amendments to North Dakota Administrative Code chapter 75-02-02 are found in pages 1057 through 1073 of your materials. This chapter deals with medical assistance (Medicaid) payment.

Section 75-02-02-08 was amended to provide that some costs associated with dental services are not covered.

Section 75-02-02-09.1 regarding cost sharing was amended to require a three dollar copayment for each brand name prescription filled.

Section 75-02-02-10 regarding limitations on inpatient psychiatric services was amended to provide that payment may not be made for these services exceeding forty-five days per calendar year per individual.

Section 75-02-02-10.2 was added to provide limitations on payment for ambulatory behavioral health care.

- 8. A constitutional takings assessment was prepared and is attached to this report.**
- 9. These rules were adopted as emergency (interim final) rules. Emergency rulemaking was necessary because the Department's Medicaid program had a projected shortfall of \$14 million in general funds during the 2001-2003 biennium. These rules were implemented as emergency rules in order to preserve funds during the remainder of the 2001-2003 biennium to meet federally imposed obligations under the Medicaid program. If the Department had failed to take adequate steps to address the projected deficit, sufficient funds may not have been available to meet obligations imposed on the State by the federal government.**

Prepared by:

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July 16, 2003**